

NOTICE OF PROPOSED EXPEDITED RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 11. DEPARTMENT OF ENVIRONMENTAL QUALITY WATER QUALITY STANDARDS

ARTICLE 4. AQUIFER WATER QUALITY STANDARDS

ARTICLE 5. AQUIFER BOUNDARY & PROTECTED USE CLASSIFICATION

PREAMBLE

1. Article, Part, or Section Affected (as applicable)

Rulemaking Action

R18-11-403

Amend

R18-11-407

Amend

R18-11-502

Amend

R18-11-504

Amend

R18-11-506

Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute(s): A.R.S. § 49-104(A)(1) and (A)(10), A.R.S. § 49-202(A), and A.R.S. § 49-203(A)(1)

Implementing statute(s): A.R.S. §§ 49-221(A), 49-223, 49-224

3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Proposed Expedited Rulemaking Docket Opening: (*in this issue*)

4. The agency's contact person who can answer questions about the rulemaking:

Name: Jon Rezabek

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5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered under A.R.S. § 41-1027(A), to include an explanation about the rulemaking:

An expedited rulemaking is appropriate because it does not: i) increase the cost of regulatory compliance, ii) increase a fee, or iii) reduce procedural rights of persons regulated. ADEQ has authority to engage in this rulemaking in accordance with A.R.S. §§ 41-1027(A). Moreover, one or more of the additional requirements of subsection A are met, including: (A)(1) amending a rule made obsolete by repeal; (A)(3) correcting typographical errors or clarifies language of a rule without changing its effect; and (A)(6) amending or repealing rules that are outdated, redundant or otherwise no longer necessary.

The following section summarizes the anticipated amendments and their justifications.

Section by Section Explanation of Proposed Rule Amendments:

R18-11-403. Analytical Methods	The rule contains an incorrect reference to R9-14-607(B) (license application fees) and would, instead, be more effective if it gave the correct reference to the specifically applicable rule for seeking approval on an alternative analytical method, R9-14-610(C). Therefore, in accordance with A.R.S. § 41-1027(A)(6), ADEQ proposes updating the language in the rule to reflect the correct reference.
R18-11-407. Aquifer Water Quality Standards in Reclassified Aquifers	The reference to A.R.S. § 49-223(D) in R18-11-407(C) is incorrect as A.R.S. § 49-223(D) now sets forth sampling and analytical protocols for assessing compliance with the aquifer water quality standards. R18-11-407(C) would be more effective if it gave the correct reference to the specifically applicable rule for the Director's obligation to adopt water quality standards for reclassified aquifers, A.R.S. § 49-223(E). Therefore, in accordance with A.R.S. § 41-1027(A)(6), ADEQ proposes updating the language in the rule to reflect the correct reference.
R18-11-502. Aquifer Boundaries	R18-11-502(A) and (B) improperly incorporate documents by reference, and should instead adhere to the requirements of incorporation by reference at A.R.S. § 41-1028(A) by including required language stating that there are no later amendments or

editions of the incorporated matter, and that copies of the document are on file with ADEQ and made available to the public. Therefore, in accordance with A.R.S. § 41-1027(A)(3), ADEQ proposes updating the language of those rules to reflect the correct statutory requirements of incorporations by reference.

R18-11-504. Agency action on petition

R18-11-504(B) contains an incorrect reference to A.R.S. § 49-204, which, at the time the rules were written, established a Water Quality Advisory Council (WQAC). The Council was terminated in 1999 and the corresponding statute was subsequently repealed in 2000. The current A.R.S. § 49-204 discusses gray water reuse and is not relevant to the rule. Therefore, in accordance with its authority under A.R.S. § 41-1027(A)(1), ADEQ proposes deleting the reference to A.R.S. § 49-204 within the rule.

R18-11-506. Rescission of reclassification

R18-11-506 contains an incorrect reference to A.R.S. § 49-204, which, at the time the rules were written, established a Water Quality Advisory Council (WQAC). The Council was terminated in 1999 and the corresponding statute was subsequently repealed in 2000. The current A.R.S. § 49-204 discusses gray water reuse and is not relevant to the rule. Therefore, in accordance with its authority under A.R.S. § 41-1027(A)(1), ADEQ proposes deleting the reference to A.R.S. § 49-204 within the rule.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Not applicable.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The preliminary summary of the economic, small business, and consumer impact:

Not applicable. The agency is exempt from the requirements to prepare and file an economic, small business, and consumer impact statement under A.R.S. § 41-1055(D)(2).

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Not applicable.

10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C).

Close of record: May 22, 2023

Written comments may be sent to the individual listed in Item 4 by the close of record.

No oral proceeding is scheduled at this time. An oral proceeding may be requested pursuant A.R.S. § 41-1027(C) by submitting a written request to the Individual listed in Item 4 by the close of record.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

Not applicable.

- a. Whether the rule requires a permit, license, or agency authorization under A.R.S. § 41-1037(A), and whether a general permit is used and if not, the reasons why a general permit is not used:

The rules ADEQ proposes amending do not require any permits.

- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None.

13. The full text of the rules follows:

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Section

R18-11-403. Analytical Methods

R18-11-407. Aquifer Water Quality Standards in Reclassified Aquifers

ARTICLE 5. AQUIFER BOUNDARY AND PROTECTED USE CLASSIFICATION

Section

R18-11-502. Aquifer boundaries

R18-11-504. Agency action on petition

R18-11-506. Rescission of reclassification

ARTICLE 4. AQUIFER WATER QUALITY STANDARDS

R18-11-403. Analytical Methods

Analysis of a sample to determine compliance with an aquifer water quality standard shall be in accordance with an analytical method specified in A.A.C. Title 9, Chapter 14, Article 6 or an alternative analytical method that is approved by the Director of the Arizona Department of Health Services pursuant to A.A.C. ~~R9-14-607(B)~~ R9-14-610(C).

R18-11-407. Aquifer Water Quality Standards in Reclassified Aquifers

A. All aquifers in the state are classified for drinking water protected use except for aquifers which are reclassified to a non-drinking water protected use pursuant to A.R.S. § 49-224 and A.A.C. R18-11-503.

B. Aquifer water quality standards for drinking water protected use apply to reclassified aquifers except where expressly superseded by aquifer water quality standards adopted pursuant to subsection (C) of this Section.

C. The Director shall adopt, by rule, aquifer water quality standards for reclassified aquifers within one year of the date of the order reclassifying the aquifer to a nondrinking water protected use. The Director shall adopt aquifer water quality standards for reclassified aquifers only for pollutants that are specifically identified in a petition for reclassification as prescribed by A.R.S. § 49-223~~(D)~~(E) and A.A.C. R18-11-503(B). Aquifer water quality standards for reclassified aquifers shall be sufficient to protect the use of the reclassified aquifer.

ARTICLE 5. AQUIFER BOUNDARY AND PROTECTED USE CLASSIFICATION

R18-11-502. Aquifer boundaries

A. Except as provided in subsection (B) of this rule, aquifer boundaries for the aquifers in this state are identified and defined as being identical to the hydrologic basin and subbasin boundaries, as found by the Director of the Department of Water Resources, Findings and Order In the Matter of The Designation of Groundwater Basins and Subbasins In The State of Arizona (dated June 21, 1984), pursuant to A.R.S. §§ 45-403 and 45-404, which is incorporated herein by reference, ~~and on file and available for public inspection with at~~ the Department of Environmental Quality ~~and the Office of the Secretary of State~~. No later amendments or editions are incorporated by reference.

B. Excluded from the boundaries of the aquifers are hard rock areas which contain little or no water, as identified in Plate 1 of the Department of Water Resources, Water Resource Hydrologic Map Series Report Number 2 (dated January 1981) and as further identified in the Bureau of Mines, University of Arizona County Geologic Map Series (individual county maps dated 1957 through 1960), which are incorporated herein by reference, ~~and on file and available for public inspection with at~~ the Department of Environmental Quality ~~and the Office of the Secretary of State~~. No later amendments or editions are incorporated by reference.

C. The Director may, by rule, modify or add an aquifer boundary provided that one or more of the following applies:

1. The Department of Water Resources modifies the boundaries of its basins or subbasins.
2. The Director is made aware of new technical information or data which supports refinement of an aquifer boundary.

D. Facilities located outside of the boundaries defined in these rules shall be subject to A.R.S. § 49-241 except as provided therein.

R18-11-504. Agency action on petition

A. Upon receipt of a petition for reclassification, the Director shall review the petition for compliance with the requirements of R18-11-503. If additional information is necessary, the petitioner shall be notified of specific deficiencies in writing within 30 calendar days of receipt of the petition.

B. Within 120 calendar days after receipt of a complete petition, and after consultation with the appropriate advisory council pursuant to A.R.S. §§ 49-224(C) ~~and 49-204~~, the Director shall make a final decision to grant or deny the petition and shall notify the petitioner of such decision and the reason for such determination in writing.

C. Upon a decision to grant a petition for aquifer reclassification, the Director shall initiate proceedings for promulgation of aquifer water quality standards and, if applicable, for aquifer boundary designation for the

reclassified aquifers.

R18-11-506. Rescission of reclassification

The Director may, by rule, rescind an aquifer reclassification and return an aquifer to a drinking water protected use if he determines that any of the conditions under which the reclassification was granted are no longer valid. If the Director initiates a change under this Section, he shall consult with the appropriate advisory council pursuant to A.R.S. §§ 49-224(C) ~~and 49-204~~.